

AGREEMENT FOR STABILIZATION

OF

ASBESTOS CEMENT WASTE PILE

AT 9215 RIVERVIEW DRIVE, ST. LOUIS

9/20/79

THIS AGREEMENT is made as of the 20th day of September, 1979 by and between BERNARD McMENAMY, CONTRACTOR, INC., a Missouri corporation with its principal place of business at 1600 Fair Lane, St. Charles, Missouri 63301 (the "Contractor"), and GAF CORPORATION, a Delaware corporation with its principal place of business at 140 West 51st Street, New York, New York 10020 (the "Owner").

The Contractor and the Owner, in consideration of the mutual covenants in this Agreement, agree as follows:

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1. The Work

The Contractor, as promptly and as economically as practicable, shall procure, purchase, furnish and pay for all of the required labor and materials for, and perform all of the administrative, supervisory, design, engineering, erection, construction, installation and testing work necessary for the work (the "Work") as more particularly shown and described or as reasonably implied in or developed from, the specifications, drawings and other descriptive data listed in the schedule of specifications and drawings attached to this Agreement as Exhibit A and incorporated herein by reference (such data, as from time to time changed as provided in this Agreement, hereinafter called the "Specifications"). The Work, to be performed in accordance with the Specifications and subject to the provisions of this Agreement, shall be accomplished at the Owner's premises at 9215 Riverview Drive, St. Louis, Missouri 63137 (the "Site").

2. Time for Completion

The Work shall be commenced no later than September 24, 1979 and shall be completed fully in accordance with the Specifications no later than April 20, 1980 subject, however, to the provisions of this Section 2 dealing with force majeure and subject, further to the provisions of Section 6 hereof dealing with changes, additions and omissions (such time hereinafter called the "Time for Completion").

If completion of the Work is delayed by unforeseeable causes beyond the control and without any fault or negligence attributable to the Contractor or its subcontractors (including, but not restricted to inclement weather, labor strikes, fire, or unavoidable casualties and, further including unavoidable delays in delivery of materials or equipment which result from defaults of vendors and which cannot be overcome by commercially reasonable purchasing practices from alternative sources), then the Time for Completion of the Work shall be extended for a reasonable period to allow therefor. No claim for such extension shall be allowed unless it is made by request to Owner.

Requests for extensions shall be governed by the provisions of Section 6 hereof applicable to adjustments in the Time for Completion.

3. The Contract Sum

The Owner shall pay the Contractor for the completion of the Work and the full and timely performance of all of Contractor's obligations under this Agreement the sum of Seven Hundred Seventy Thousand Two Hundred Nine Dollars (\$770,209.00) subject to adjustments as hereinafter provided (as so adjusted hereinafter called the "Contract Sum"). The Owner shall never be required to pay to the Contractor any amount in excess of the Contract Sum except as provided in Section 6 hereof, it being expressly understood and agreed by Owner and Contractor that this Agreement is a lump sum, fixed price contract. Contractor shall pay all taxes in connection with the performance of this Agreement, except sales taxes and real property taxes.

Notwithstanding the foregoing paragraph of this Section 3, the Owner shall (i) reimburse the Contractor for the premium on the performance bond required by Section 31 hereof provided that such bond is in the principal amount of Seven Hundred Seventy Thousand Two Hundred Nine Dollars (\$770,209.00) and provided further that the premium for such bond does not exceed One and One-Tenth Percent (1.10%) of the principal amount. The Owner shall also reimburse the Contractor, on a dollar-for-dollar basis without override, for its costs incurred in connection with meeting (a) occupational safety and health (OSHA) standards and (b) environmental and pollution control monitoring requirements, but only to the extent that such costs are directly related to asbestos

bearing material. Such costs shall include but not be limited to respirators, disposable clothing and on-site and off-site air sampling, it being the intention of the parties to this Agreement that the Owner bear OSHA and environmental and pollution control monitoring costs which would not have been incurred had the Site been free of asbestos bearing material.

4. Progress Payments; Retainage

No later than the tenth day of each month, the Contractor shall prepare and submit to the Owner through the Representative (as defined in Section 27 of this Agreement) a requisition in a form prescribed by the Owner, showing (i) the Contract Value (as defined in Section 27 of this Agreement) of all labor and materials properly incorporated in the Work on the Site during the preceding month and (ii) the Contract Value of all materials properly delivered to the Site and suitably stored during the preceding month. Contractor shall certify that all labor and materials covered by such requisitions are in conformity with the Specifications and, if required by Owner, shall obtain the further certification of the Representative as defined in Section 27. Within ten (10) days after receipt of each such requisition, the Owner shall pay the Contractor ninety percent (90%) of such Contract Value of such labor and materials provided, however, that after one-half (1/2) of the Work has been completed and requisitions issued therefor, the Owner shall pay the Contractor one hundred percent (100%) of such Contract Value of such labor and materials. The total of such progress payments required prior to the final progress payment shall not exceed ninety-five percent (95%) of the Contract Sum. The requisition shall also itemize and show such Contract Value and amount of indebtedness properly payable to each subcontractor or vendor for such labor performed or materials delivered and suitably stored during the preceding month and the date payment therefor from the Contractor is due. Any part of a progress payment

for labor or materials of a subcontractor or vendor properly includable in such requisition may be withheld by Owner and paid directly to such subcontractor or vendor for the account of Contractor when due from Contractor. Owner's payment or approval of a requisition, or use or occupancy of anything included within the Work, shall not be deemed an acceptance or approval of the Work or waiver of any of its rights.

Owner may set off any amounts due or to become due from Contractor to Owner in connection with this Agreement against any amounts due from Owner to Contractor in connection with this Agreement, including all payments, costs or expenses of Owner made or incurred for the account of Contractor.

The obligation to pay for any item of such requisition shall be conditioned upon delivery to Owner of a waiver of any lien on the Site, in form prescribed by the Owner (i) executed by the Contractor, waiving its lien to the last day of the month preceding such requisition and (ii) executed by each subcontractor or vendor, whose performance of labor or delivery of material is included in such item, waiving its liens to the last day of the month covered by the latest prior requisition for amounts payable to such subcontractor or vendor.

5. Final Progress Payment

When the Work is completed, Owner shall, promptly after final requisition of payment by Contractor, give Contractor final written acceptance of the Work. Such final requisition shall warrant (i) the full performance of every obligation under this Agreement to be performed by Contractor and (ii) the conformance of the Work with the Specifications. Owner shall pay Contractor the balance of the Contract Sum thirty (30) days after such final requisition provided, however, that this Agreement has been fully performed and the Work completed, both in accordance with the warranty set forth in the preceding sentence.

Upon completion of the Work, Contractor shall give the Owner (i) evidence establishing the nature and amount of all liens on the Work (including, for purposes of this Section 5, potential liens) with a warranty against other or different liens and (ii) either a complete release of all such liens, or receipts in full covering the claims secured or securable thereby, or, if requested by Contractor and approved by Owner, or if required by Owner, a bond and agreement satisfactory to the Owner securing and indemnifying it against any such liens.

6. Instructions; Changes

Contractor shall request Supplemental Instructions when required. The Owner may from time to time during the performance of this Agreement, by instructions or drawings issued to the Contractor in the form of a supplemental instruction (i) direct, detail and illustrate the Work, or (ii) make changes in the Specifications, require additional Work or require the omission of Work previously required. The provisions of this Agreement shall apply to any such changes, additions and omissions with the same effect as if they were embodied in the original Specifications. The reasonable supplemental instructions of the Owner shall be conclusive as to any matter relating to the Work, including but not limited to (i) the time and manner of performing the Work, (ii) the quality of materials and workmanship involved, (iii) the proper implications and developments of the Specifications, (iv) the manner of determining Contract Value in connection with progress payments or adjustments in connection with Extra Work (as defined below), but in each case only to the extent such matters are not completely defined in the Specifications, in this Agreement, or in a Supplemental Agreement. Supplemental instructions in these matters shall not be deemed changes in the Work.

If any changes, additions or omissions ordered by the Owner shall properly cause an increase in the cost of performance of this Agreement or properly extend the time of

completion (the "Extra Work"), an adjustment in the Contract Sum or in the Time for Completion shall be made and determined only as provided in this Section 6. Contractor shall do no Extra Work prior to the making and determination of such adjustments without express written approval of the Owner.

No claim for any increase in the Contract Sum or any extension of the Time for Completion shall be allowed unless it is made by a request to Owner. Any such claim shall be accompanied by a fully documented cost and time estimate for the Work covered by such claim. Any adjustment in the Time for Completion that is allowable pursuant to this Section 6 must be claimed in the same request in which adjustments for related cost changes are claimed. Appropriate adjustments shall also be allowed for changes, additions or omissions ordered by the Owner causing a decrease in the cost of performance or time of completion ("Less Work").

If Owner and Contractor agree on equitable adjustments of claims allowable pursuant to this Section 6, the agreement shall be confirmed by a supplemental agreement to this Agreement, which shall be conclusive of the adjustments allowable.

Contractor shall clearly prove all costs and delays as a condition to any adjustment and shall provide Owner, upon request, with all supporting evidence. Any supplemental agreement relating to Extra Work or Less Work shall be signed by Owner only.

7. Materials and Workmen

This Agreement creates a relation of trust and confidence between the Contractor and the Owner. Contractor shall furnish the best skill and judgment in advancing the interests of the Owner. It agrees (i) to furnish efficient business administration and superintendents of the best skills, (ii) to use the greatest diligence to maintain an adequate supply of workmen and materials upon the Work at all times, and (iii) to perform the Work in the best workmanlike, most expeditious and economical manner, all as consistent with the interests of the Owner.

Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the best of their respective kinds. Where not specifically shown or mentioned, materials shall be as the Owner directs. As the term is used in this Agreement, "materials" also includes all machinery and equipment.

At all times the Contractor (i) shall enforce strict discipline and good order among the workmen, (ii) shall comply with all discipline required by Owner and (iii) shall not employ or permit on the Site anyone unfit or not skilled in the work assigned to him.

Contractor shall not engage in or permit any unfair or unusual labor practice, and shall use only union labor.

8. Inspection of Work

The Contractor shall provide sufficient, safe and proper facilities and access at all reasonable times for the inspection of the Work by the Owner.

Contractor shall uncover the Work as requested by Owner, and if the uncovered Work is not properly condemned, Owner shall be chargeable with the cost and delay of uncovering in the same manner as a change in the Specifications. Neither Owner's inspection or failure to inspect, nor any other circumstance, shall relieve Contractor of any obligation hereunder unless such Work is expressly approved in writing by the Owner after inspection.

9. Correction of Work

The Contractor shall promptly remove from the Site all work or materials condemned by the Owner as being unfit, unsafe, unsound, or at variance with the true intent and purpose of this Agreement and the Specifications, whether incorporated in the Work or not, and shall promptly replace and re-execute the Work in accordance with this Agreement and the Specifications without cost to the Owner.

If the Contractor does not remove such condemned work or materials within a reasonable time fixed by written notice of Owner, the Owner may have such Work removed and replaced for the account of the Contractor.

If the Owner elects to waive any condemned Work an equitable adjustment shall be made in the Contract Sum.

10. Samples

Whenever the Owner may require, the Contractor shall furnish directly to the Owner for approval any and all samples of the materials to be used in the performance of the Work, and the materials thereafter used shall be in strict accord with such approved samples. Contractor shall certify to Owner, upon such submission, that such samples comply with the specific section of the Specifications applicable thereto and are recommended.

11. Protection of Work, Property and Persons; Indemnity

Until acceptance of the Work, the Contractor shall take all reasonable or required precautions against all loss, theft, damage or injury on the Site and shall maintain adequate protection, safety and security of the Work, workers, adjacent property, and the public, and shall also be responsible for any damage or injury on the Site unless caused by the Owner. As against the Owner, the Contractor shall be solely responsible for the condition of the Site, unless any injury or liability is caused by acts or omissions of the Owner. Until completion of the Work, the Contractor shall keep everything on the Site and all workmen thereon safe, healthy and orderly, and shall comply with the Owner's reasonable instructions with respect to the condition of the Site, but the Owner assumes no liability with respect thereto except as specifically set forth in this Section 11.

Any other provision in this Agreement to the contrary notwithstanding, the Contractor hereby assumes entire responsibility and liability for any and all damage or injury of any kind or nature whatsoever caused by, resulting from, arising out of, or occurring in connection with the performance or nonperformance of this Agreement or prosecution of the Work by or on behalf of the Contractor. If any claim shall be made for any such damage or injury, whether such claim be based upon the Contractor's alleged active or passive negligence or participation in the wrong or upon any alleged breach

of any statutory duty or other obligation on the part of the Contractor whether under this Agreement or otherwise, the Contractor unconditionally agrees, on demand, to indemnify and save harmless the Owner, its agents, servants, and employees from and against any and all liability, loss, expense (including reasonable attorneys' fees), damage or injury of any kind or amount whatsoever that they or any one of them may sustain as a result of any such claim and the Contractor agrees to assume, upon request and on behalf of the Owner, the expense of the defense of any action which may be brought against the Owner upon such claim and to pay on behalf of the Owner upon the Owner's demand (i) the amount of any judgment that may be entered against the Owner in any such action or (ii) the amount of any settlement of any such claim or action provided, however, that Owner shall first approve any such settlement to the extent that same is binding upon the Owner. During the pendency of any such claim, upon request of the Owner, the Contractor shall adequately secure the Contractor's indemnity obligation to the Owner. The Contractor expressly agrees that this Section 11 shall survive termination of this Agreement.

The Contractor hereby waives any statute of limitations applicable to the Contractor's obligations pursuant to this Section 11, but only to the extent that such obligations relate to or result from asbestos induced illness.

12. Title to the Work; Use by Owner

Title to all materials shall immediately vest in the Owner and be transferred from the Contractor upon delivery of such materials to the Site before their installation or incorporation into the physical structure of the Work.

Such materials shall then become the sole property of the Owner, subject to the right of the Owner to reject the same for failure to conform to the standards of this Agreement or the requirements of the Specifications.

12a. Contract Value

The Owner and the Contractor may enter into a Supplemental Agreement to establish the manner in which the valuation of work and materials shall be determined for purposes of progress payments (the "Contract Value"). Such Supplemental Agreement shall bind all subcontractors. The Contractor shall furnish to the Owner within five (5) working days after signing this Agreement, a proposed breakdown showing the proposed Contract Value of each portion of the Work according to the various subheadings of the Specifications and the method of arriving at such value.

13. Progress Schedules; Reports

Within five (5) working days after signing this Agreement, the Contractor shall submit to the Owner an estimated progress schedule for the Work described in or otherwise contemplated by this Agreement and the Specifications. Such schedule shall not bind the Owner to accept the progress scheduled therein as conforming to this Agreement or the Specifications.

The Contractor shall also submit to the Owner weekly progress reports indicating the status of the Work, including procurement of materials proposed for use in the Work. The initial report shall be submitted within fifteen (15) working days after the signing of this Agreement. Contractor shall furnish Owner copies of all purchase orders, invoices, etc. promptly on receipt or preparation.

It is contemplated that the weekly progress reports referred to above shall be presented at weekly meetings among the Owner, the Representative and the Contractor. Such meetings shall be held at the Site at a mutually agreeable time.

14. Subcontracts and Procurement

All subcontractors and all major vendors shall be acceptable to Owner. Prior to starting the Work, the Contractor shall submit to the Owner for written acceptance the names of all proposed subcontractors and vendors and details of the Work each will perform.

The Contractor shall bind every subcontractor and vendor (and will obtain the written agreement of every such subcontractor and vendor to be bound) by the terms of this Agreement insofar as they may bind the Contractor and be applicable to the separate Work covered by such subcontract or supply contract, unless otherwise authorized by the Owner in writing. Every contract with a subcontractor or vendor shall be acceptable to the Owner, in its entirety, and shall, unless the Owner directs otherwise, include at least (i) express provision for assignment to the Owner upon termination of this Agreement pursuant to Section 20 hereof and (ii) the terms set forth in any schedule of subcontract and procurement terms attached to and made a part of this Agreement. Executed counterparts of all such contracts shall be delivered to Owner.

Nothing shall create any obligation of Owner to any subcontractor or vendor except an express written assumption of such obligation, or make the Contractor, any subcontractor or any vendor the agent of the Owner, or relieve the Contractor from the total responsibility to the Owner which it hereby

assumes for the selection or the acts or omissions of sub-
contractors or vendors or persons directly or indirectly
employed by the Contractor or impose on the Owner any such
responsibility to any person. Any schedule of subcontract
and procurement terms adopted by the parties hereto shall not
be deemed to impose any obligation or responsibility on the
Owner.

15. Contractor's Use of the Site

The Contractor shall confine its appliances, the storage of materials and the operations of workmen to the Site and to limits indicated by law, ordinances or permits, and shall not unreasonably encumber the Site with materials. Before storing any materials or appliances, or before constructing any temporary job structures upon the Site, the Contractor shall obtain approval from the Owner designating the space and location on the Site for such storing or construction.

16. Permits and Regulations

Before commencing the performance of any of the Work under this Agreement, the Contractor shall supply all necessary or appropriate permits, licenses, permissions or approvals, including such permits as may be appropriate or required by any governmental or quasi-governmental authorities having cognizance of health, safety, environment, zoning or construction provided, however, that the Owner shall have the responsibility of securing the requisite approvals of the Specifications, if any, from the United States Environmental Protection Agency, the Missouri Department of Natural Resources and the Metropolitan St. Louis Sewer District. Before and during the progress of the Work, the Contractor shall give all notices and comply with all applicable laws, codes, regulations and official interpretations thereof including health and safety standards and environmental and pollution control standards of every kind and description, now or hereafter in effect, relating to the performance of the Work under this Agreement. If the Contractor performs any of the Work contrary to any such requirement, it shall bear all the costs arising therefrom. If, because of any variance of the Specifications from any such requirement, the Contractor is unable to comply with such requirement, the Owner shall reasonably change the Specifications by a supplemental instruction so as to end such variance. If, after reasonable notice by the Owner, Contractor fails for any other reason to procure

such permits or comply with such requirements, the Owner may cancel this Agreement without any cost, damage or penalties whatsoever, or the Owner may procure the permits or comply with such requirements and the costs thereof shall be for the account of Contractor.

17. Insurance

Prior to commencement of any Work hereunder, but within five (5) days after the effective date of this Agreement, the Contractor shall procure and thereafter maintain for the duration of its obligations hereunder, and shall furnish to the Owner a certificate from a carrier licensed to do business in the State of Missouri satisfactory to the Owner and evidencing such coverages, the following insurance:

(i) Comprehensive General Liability Insurance, including premises/operations, explosion/collapse hazard, underground hazard, products/completed operations hazard, contractual, broad form property damage, independent contractors and personal injury coverages, with minimum limits of \$500,000 each person, \$500,000 in the aggregate for bodily injury liability and \$250,000 each occurrence, \$500,000 in the aggregate for property damage liability;

(ii) Comprehensive Automobile Liability Insurance for all owned, non-owned and hired vehicles, with minimum limits of \$500,000 combined single limit for bodily injury liability and property damage liability;

(iii) Workmen's Compensation with statutory limits and Employer's Liability insurance with a minimum limit of \$500,000 each occurrence with respect to all employees of the Contractor entering upon the Site or engaging in any of the Work; and

(iv) Comprehensive Excess Indemnity, Umbrella Form, with aggregate limits of \$5,000,000.

The certificate required to be furnished by the Contractor shall name the Owner as an additional insured under said coverages with respect to any contingent or indirect legal liability of the Owner arising out of occurrences of liability for which coverage is afforded to the Contractor and shall further provide that the said coverages are not subject to cancellation, expiration or change until thirty (30) days after the Owner has received notice thereof as evidenced by the return receipt of registered mail addressed to G&F Corporation, Risk Management Department, 140 West 51st Street, New York, New York 10020. The Contractor shall also furnish all risks equipment floater insurance for the full value of any of the Contractor's equipment or third party equipment rented by the Contractor and used in the performance of the Work or the performance of any other obligation of the Contractor under this Agreement.

Unless otherwise agreed by the Owner and the Contractor, the Contractor shall require any subcontractor who performs any portion of the Work to maintain the same insurance, and to provide the same certificate, as required of the Contractor pursuant to this Section 17. The Contractor shall refuse access to the Site to any subcontractors that fail to comply with this requirement.

18. Assignment

Neither party to this Agreement shall assign or encumber this Agreement without the written approval of the other, nor shall the Contractor assign any monies due or to become due to it herein without previous written approval of the Owner, and any such attempted assignment not so approved shall be void..

19. Cleaning Up

The Contractor shall at all times keep the Site free from accumulations of waste material or rubbish other than that present on the date of this Agreement. The Contractor shall not obstruct or damage adjacent streets or access ways nor permit interference with any operations in the vicinity of the Site. The Owner's plant will be in operation during the performance of the Work and shall not be interfered with or interrupted in any manner. Materials resulting from demolition, if any, and not suitable in the Work will become the property of the Contractor on the Owner's approval and shall be immediately removed from the Site. At the completion of the Work, the Contractor shall remove from the Site all rubbish, implements and surplus materials and shall leave the Site and the Work thereon clean and finished in accordance with the Specifications.

20. Owner's Right to Terminate

Anything in this Agreement to the contrary notwithstanding, (i) if the Contractor, without any extension of the Time for Completion, fails in any respect to prosecute the Work with promptness and diligence so as to insure its completion by the Time for Completion, or (ii) if the Contractor fails to make prompt payment to subcontractors or for material or labor (unless acting in good faith and diligently contesting such payments by appropriate proceedings), or (iii) if the Contractor violates any law, ordinance or regulation, or (iv) if the Contractor otherwise fails to perform or observe any provision of this Agreement, or (v) if the Contractor commences a bankruptcy, reorganization or similar proceeding, or makes a general assignment for the benefit of creditors, or admits in writing its inability to pay its debts when due, or (vi) if a bankruptcy, reorganization or similar proceeding shall be commenced against the Contractor and not be dismissed within thirty (30) days, or a receiver appointed on account of its insolvency, then the Owner may, without prejudice to any other right or remedy it may have hereunder or under applicable law, terminate all further obligation to the Contractor upon five (5) working days' written notice, and take possession of the Work, the Site and of all materials, tools, and appliances and equipment thereon or intended for the Work, wheresoever located, and proceed to complete the Work, or cause the Work to be completed. Upon such termination, any contract of

Contractor's relating to the Work may be, at Owner's discretion, deemed assigned by the Contractor to the Owner, and the Owner may perform the Contractor's obligations thereunder as part of the cost of completion of the Work. If the cost of completion of the Work shall exceed the unpaid balance of the Contract Sum, the Contractor shall pay the difference to the Owner.

21. Contractor's Right to Terminate

If the Work is stopped by order of any court or other public authority for a period of ninety (90) working days or more through no fault attributable to the Contractor, or if for thirty (30) working days after special written demand therefor expressly citing the Contractor's right to terminate this Agreement pursuant to this Section 21, the Owner wrongfully fails to make any payment due to the Contractor then, provided such stoppage or failure to pay is continuing, the Contractor may, upon five (5) working days' written notice to Owner, either (i) stop work, or (ii) stop work and terminate this Agreement and as its sole remedy retain the part of the Contract Sum theretofor paid and recover from the Owner the direct cost properly incurred to the time of termination of the Work not covered by the part of the Contract Sum theretofore paid.

22. Contractor's Duty to Inspect the Site

The Contractor shall be deemed to have examined the Site prior to the submission of its proposal to perform the Work under this Agreement and to have become acquainted with the existing conditions under which the Work shall be performed. No adjustment shall be allowed subsequent to the execution of this Agreement for any failure of the Contractor to observe any condition of the Site.

23. Owner's Right to Perform

The Contractor shall pay the costs of the Work as they are due. If the Contractor fails to so pay any of the cost of the Work, the Owner may pay such costs directly for the account of the Contractor.

Except as otherwise expressly provided, if the Contractor should fail to perform any obligation required by this Agreement to be performed by the Contractor, the Owner may deliver a notice in writing to the Contractor demanding such performance, and upon the continued failure to so perform by the Contractor for such reasonable period as is specified in such notice, the Owner may perform such obligation and the cost thereof shall be for the account of the Contractor. The Owner shall give the Contractor advance written notice of any election by the Owner to perform any obligation of the Contractor. Any costs not properly incurred by the Owner shall not be deducted from the payments due to the Contractor.

24. Contractor's Warranty; Owner's Acceptance

The Contractor warrants to the Owner that each portion of the Work shall, at the time that same is completed, conform in all respects to the Specifications.

At the time that each portion of the Work is completed in accordance with the Specifications, the Owner shall provide the Contractor with written acceptance of each such portion of the Work.

25. Ownership of Documents

All drawings, Specifications or other documents furnished by the Owner to the Contractor shall remain the property of the Owner and the Contractor shall make no use of such drawings, Specifications or documents except in performance of the Work.

26. Specifications and Drawings

The Specifications do not constitute a representation by Owner as to the actual existence of any condition shown therein. The Contractor warrants that it has examined such Specifications, that they are clear, consistent and suitable for the prosecution of the Work, and assumes full responsibility for their proper elaboration and development.

27. Owner's Representative

The Owner hereby designates Messrs. Reitz & Jens, Inc. as its representative (the "Representative") to act for it in technical matters, and it shall have such further singular authority as Owner may from time to time expressly grant in writing. The Contractor may consult with the Representative, notwithstanding any representation to the contrary.

The Representative shall have no authority either to modify this Agreement or to adjust the Contract Sum for Extra Work.

27a. Owner's and Contractor's Agents

The Owner hereby designates Murray S. Sherman as the "Owner's Agent" whom Contractor shall be entitled to recognize and accept as Owner's agent, with full power and authority to act for, and in the name, place and stead of Owner, for any of the purposes for which Owner may or shall have authority or responsibility under this Contract. The Contractor shall be entitled to rely on such designation until written revocation thereof and the designation of a different Owner's Agent is received by Contractor. All written communications from Contractor to Owner shall be delivered personally to Owner's Agent, or shall be deemed to have been received by Owner on the third business day following deposit of the same in the U.S. Mail with First Class postage prepaid and proper addressing to Owner's Agent as follows:

Mr. Murray S. Sherman
GAF Corporation
9215 Riverview Drive
St. Louis, Missouri 63137
With a copy to: Mr. Thomas A. Dent
GAF Corporation
1361 Alps Road
Wayne, New Jersey 07470

The Contractor hereby designates Bernard McMenamy as "Contractor's Agent" whom Owner shall be entitled to recognize and accept as Contractor's agent, with full power and authority to act for, and in the name, place and stead of Contractor, for any of the purposes for which Contractor

may or shall have authority or responsibility under this Contract. Owner shall be entitled to rely on such designation until written revocation thereof and the designation of a different Contractor's Agent is received by Owner. All written communications from Owner to Contractor shall be delivered personally to Contractor's Agent, or shall be deemed to have been received by Contractor on the third business day following deposit of the same in the U.S. Mail with First Class postage prepaid and proper addressing to Contractor's Agent as follows:

Mr. Bernard McMenamy
Bernard McMenamy, Contractor, Inc.
1600 Fair Lane
St. Charles, Missouri 63301

28. Superintendence

The Contractor shall designate in writing and shall keep a competent supervisor (the "Supervisor") constantly in charge of the Site and the Work and present on the Site during all working hours from the time the Work on the Site is commenced until it is completed. The Supervisor shall be approved by the Owner. The Supervisor shall receive and comply with the Owner's instructions and drawings and the Specifications as provided for in this Agreement, and shall supervise the work of all subcontractors and workmen. He shall work in harmony with the Owner and the Owner's Representative.

The Supervisor shall not be removed or transferred without the approval of the Owner.

The Supervisor shall, in particular, carefully examine drawings, Specifications and Work and acquaint the Owner with any inconsistency, defect or discrepancy that may appear before proceeding with the Work, and shall use diligence to acquaint the Owner with any matter materially affecting the Owner's interests.

29. Care of Finished Work

The Work shall be effectively protected from injury or defacement.

30. Appliances

The Contractor shall use such methods and appliances for the performance of all portions of the Work as will produce the required quality of workmanship and a rate of progress which, in the reasonable opinion of the Owner, will secure the completion of the Work by the Time for Completion.

The Contractor shall provide and maintain all incidental materials, appliances, tools, plant, utilities, transportation, field offices and rooms, etc. necessary or convenient to the prosecution of the Work and the same shall be at the risk of the Contractor.

The Owner shall provide the Contractor with water from such outlets at the Plant as the Owner shall determine are available for the Contractor's purpose and the Contractor shall be responsible for transporting such water to the work area.

31. Contractor's Bond

The Contractor, at Contractor's expense, shall furnish a bond, the surety and form of which have been approved by the Owner, in the amount of up to one hundred percent (100%) of the adjusted Contract Sum conditioned that the Contractor shall satisfactorily complete the Work according to the terms of this Agreement. If additional or other bond is requested after this Agreement is signed, the premium therefor shall be paid for by Owner or the Owner may waive the requirement of the aforesaid bond entirely. The Contractor warrants that it has and will maintain (i) the financial capacity for obtaining bonds at reasonable premiums from a surety approved by Owner and (ii) the financial capacity for performing this Agreement.

32. Miscellaneous

Written notice, when required under the terms of this Agreement, shall be duly served by delivery to the Owner's Agent or to the Contractor's Agent, as the case may be, or, if sent by mail, sent by registered mail and delivered to the last business address designated by notice in writing by the intended recipient.

Failure of either the Owner or the Contractor to enforce any provision of this Agreement shall not be deemed a waiver of such provision or of subsequent failures to comply with any such provision.

This Agreement may be amended only in writing signed by both the Owner and the Contractor. This Agreement sets forth the full and final understanding of the parties with regard to the subject matter thereof and any prior or contemporaneous oral or written understandings with regard to such subject matter shall be of no force or effect.

Neither Owner nor Contractor shall unreasonably withhold or delay any approval expressly required by this Agreement as a condition to any right or power of the other, unless such approval or consent is expressly committed to its discretion.

In case of inconsistency this Agreement shall control the drawings, and the drawings shall control any specifications elaborating them, except that anything not directly inconsistent set forth in one and omitted in another shall be recognized.

This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri, without giving effect to the conflicts of laws provisions thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

OWNER:
GAF CORPORATION

By Thomas A. Dent
Thomas A. Dent, Vice President

CONTRACTOR:
BERNARD McMENAMY, CONTRACTOR, INC.

By Bernard McMenemy
Bernard McMenemy, President

EXHIBIT A TO AGREEMENT
FOR
STABILIZATION OF CEMENT WASTE PILE

The Specifications consist of the following documents:

1. Scope of Work (2 pages)
2. Description of Objectives by Designated Areas (3 pages)
3. Seeding Specification (3 pages)
4. Grading Plan (1 page)

Scope of Work

An asbestos cement waste pile presently stored on the north side of the GAF plant site at 9215 Riverview Dr. is to be reworked by the contractor. The palletized waste product accumulation located between the general warehouse building and waste pile shall be moved and placed on the pile. This cleared yard area shall then be regraded for surface runoff drainage away from the buildings and into the south drainage swale. The yard area will then be covered in accordance with requirements of the plans and specifications.

This work will include:

1. Clear, remove and dispose of trees and other vegetation in the work area. May be disposed of off-site or on-site if placed in middle of reworked waste pile. Some of the large trees around the perimeter of the site may remain at the contractor's option if they will not hinder his operation on the project. Trees may be sawed off within 18 inches of ground level provided the tree stump surface will be at least two feet below final grade.
2. Construct rock blanket along Maline Creek (see proposed grading plan).
3. Remove existing waste accumulation outside limits of proposed reshaped pile and place on pile (see proposed grading plan). Rework perimeter slopes to no steeper than 3E:1V (see proposed grading plan). Move excess material from this grading onto waste pile. Reshape top of pile to drain. Slopes on top of pile shall be no flatter than 2%. Round tops of perimeter slopes to blend with top of pile (see proposed grading plan). Around an existing Union Electric Co. transmission tower, slopes will have to be warped to accommodate to base of tower and provide suitable surface runoff drainage around tower. Grade drainage swales on both sides of reshaped pile (see proposed grading plan).

4. Construct drainage structure for discharge into Maline Creek (see proposed grading plan).

5. Construct service road on south side of pile (see proposed grading plan).

6. Load and truck in clean earth cover and spread over entire surface of waste pile and regraded yard area. Cover material may be excavated by the contractor at the Missouri Portland Cement Co. shale pit north of the site at no cost for borrow. Earth cover on perimeter slopes, top of reshaped pile and drainage swales shall not be less than 12 inches thick. Earth cover on regraded yard areas shall not be less than 12 inches thick.

7. Prepare surface for seeding.

8. Seed, fertilize, mulch all areas with earth cover.

9. Service road and drainage swale in designated Area 7 and the drainage structures for discharge into Maline Creek shall be staked out by the Engineer for the Owner at no charge to the contractor. The contractor shall be responsible for survey control of the slopes of the waste pile during grading of the pile. The Engineer will make spot checks at his discretion.

DESCRIPTION OF OBJECTIVES BY DESIGNATED AREAS

- Area 1: Dress top of pile (southeastern tip) except uniform slope from Areas 14 and 9 and continue slope from Areas 3 and 10.
- Area 2: Provide berm around Union Electric tower. Use excess material to build uniform slopes into Areas 10, 11 and 22. Cover slope at property line as described for Area 11.
- Area 3: Complete southeastern tip of pile by providing a uniform slope, especially using material from Area 14.
- Area 4: Remove loose wastes and provide drainage to swale (see typical section G-H)
- Area 5: Remove loose wastes and provide drainage to swale (see typical section G-H)
- Area 6: Remove loose wastes and provide drainage to swale (see typical section G-E)
- Area 7: Build service road and parallel drainage ditch (see typical section G-E)
- Area 8: Provide uniform slope from bottom of drainage ditch (Area 7) to top of pile (Area 12) as indicated on typical section G-H.
- Area 9: Provide uniform slope from bottom of drainage ditch (Area 7) to top of pile (Areas 1, 10 and 11).
- Area 10: Fill depression and dress top of pile.
- Area 11: Reshape and smooth pile. Cover slope draining off GAF property with 3-foot minimum depth of earth cover. Provide 2-foot high berm at top of slope to prevent drainage from top of pile going down slope. Where adjacent pile is higher than GAF, raise berm to provide at least 1-foot cover at property line and shape to keep adjacent drainage off GAF.
- Area 12: Provide uniform slope to top of pile (Areas 11 & 12).
- Area 13: Reshape and smooth pile. Cover slope draining off GAF property with 3-foot minimum depth of earth cover. Provide 2-foot high berm at top of slope to prevent drainage from top of pile going down slope. Provide 12-inch corrugated metal pipe at end of berm to drain swale into Area 15.
- Area 14: Provide berm for construction access at top of rock blanket and provide and place rock to protect slope from erosion. Degrade top edge of pile to flatten slope and gain a stable lower slope for rock blanket. Drift material into Area 3 for disposal.
- Area 15: Provide uniform slope to top of pile (Area 12), continuity to slopes in Areas 8 & 13 and provide drainage to ditch in Area 7. Cover slope draining off GAF property with 3-foot minimum depth of earth cover.
- GENERAL NOTE: By completion of contract all parts of all numbered areas will be covered by either rock blanket or at least one-foot thick blanket of soil seeded and fertilized, ditch lining or road pavement except where 3-foot depth of cover is shown on proposed grading plan.

Description of Objectives by Designated Areas (Cont'd)

The quantities listed for the designated areas were the result of calculations from available survey information. Because of the nature of these surveys, the types of material present and configuration of the actual surface, these calculations may or may not be representative of the actual volumes and masses of material to be removed. It is agreed that no claims for reduction or increase in the contract price will be made by either the owner or contractor for any variation in actual quantities in the various designated areas for the described Scope of Work.

Description of Ob jectives by Designated Areas (Cont'd)

DESIGNATED AREA	GAP SURFACE AREA (ACRES)	ESTIMATED
		CUTTING EARTHWORK (YD ³)
1	.4	1,500
2	.3	600
3	1.3	500
4	.9	4,200
5	1.1	10,900
6	.7	5,200
7	1.1	9,900
8	.6	5,700
9	.7	6,400
10	.4	400
11	1.4	900
12	1.5	500
13	.6	3,900
14	.3	2,900
15	.6	3,000
	<u>11.9</u>	<u>55,900</u>

GAF WASTE PILE
Seeding Specification

Reitz & Jens, Inc.
August 1979

This work shall consist of furnishing all materials, tools, equipment and labor and executing all work necessary for preparing, fertilizing and sowing of seeds as specified in the contract.

a. Materials:

1. Commercial Fertilizer shall meet the following requirements:

- (a) shall be a complete fertilizer containing in available form, by weight, a min. of 12% nitrogen, 12% phosphoric acid and 12% potash.
- (b) The fertilizer shall be delivered to the site in the original unopened containers which shall bear the manufacturer's guaranteed statement of analysis. Fertilizers shall be stored in a weatherproof place in such a manner that it will be kept dry and its effectiveness not impaired.

2. Grass Seed shall be fresh, clean, new crop seed. The contractor shall furnish the dealer's guaranteed statement of the composition of the mixture and percentage of purity and germination of each variety.

- (b) Grass seed shall be composed of the following varieties which shall be mixed in proportions and shall test the min. percentage of purity and germination specified.

<u>Name</u>	<u>Proportion By Weight</u>	<u>Purity</u>	<u>Germination</u>
Kentucky 31 Tall Fescue	65%	98%	85%
" Bluegrass	25%	85%	80%
Alsike Clover *	10%	98%	55% (exclud. hard seed)

*Substitute Crown Vetch for Alsike Clover on all 3:1 slopes.

4. Straw: Shall be threshed straw of hay, oats, barley or rye, not chopped in short lengths.

5. Asphalt Tak-Coat: To be emulsified asphalt, Grade DM-1 as manufactured by Chevron Asphalt Co. or approved equal.

Seeding Specifications (Continued)
6. Hydro-Mulch

Material shall be a wood-cellulose fiber such as Conwed hydro-mulch as manufactured by Conwed Corp., 332 Minnesota, St. Paul, MN 55101 or approved equal. This may be used as an alternate system in lieu of straw and asphalt Tak-Coat.

Preparation for Seeding:

- a. Prepare any eroded areas and make minor grading adjustments necessary for good drainage.
- b. Spread fertilizer over all areas to be seeded at a rate of 400 lbs. per acre with an approved spreader.
- c. Disk and harrow non-slope areas thoroughly to mix the fertilizer into the soil to a depth of 3 inches.

Seeding: Sow grass by mechanical spreaders of approved type, doing the work in two directions at right angles to each other. If blowers or hydro-seeding equipment is used, work shall be carefully regulated to obtain even coverage of seed, fertilizer and straw, Tak-Coat or Hydro-Mulch wood fibers.

- a. Seeding shall be applied at a min. of 80 lbs. per acre (2 lbs. \pm per 1,000 sq.ft.).

Mulching:

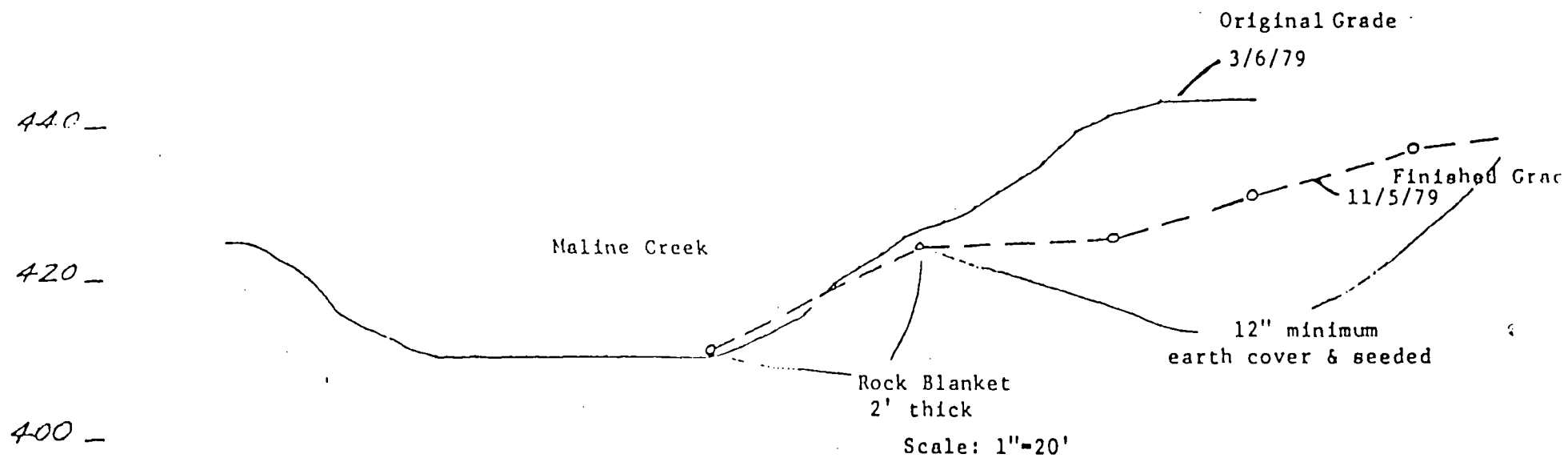
a. Straw & Tak-Coat Method:

- (1) Spread straw over the seeded areas at a rate of 2 tons (dry weight). It shall be spread evenly, with care, so as to leave seeded surface with a min. amount of damage. Blowing straw from machines shall be permitted.
- (2) Spread asphalt binder over strawed areas as soon as straw is placed. Thoroughly mix 1 gal. of asphalt emulsion with 0.75 gal. water and apply evenly at a rate of 0.2 gal. per sq.yd. immediately after straw is spread. Any straw blown into piles shall be re-spread prior to tacking or, if same should occur after tacking, the straw shall be re-spread and re-tacked.

b. Hydro-Mulch Method:

- (1) Wood cellulose fiber mulch shall be applied at the rate of 1500 lbs. per acre with an hydraulic mulching machine as a part of seeding and fertilizing process.

PROFILE ALONG GAF-CERTAINTEED PROPERTY LINE
(Looking upstream)



Reitz & Jens, Inc
November 1979